



NOAA FISHERIES

PROPOSED ACTION: Issuance of Incidental Harassment Authorization to ExxonMobil Alaska LNG LLC for the Take of Marine Mammals Incidental to Geophysical and Geotechnical Surveys in Cook Inlet, Alaska.

TYPE OF STATEMENT: Environmental Assessment

LEAD AGENCY: U.S. Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service

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LOCATION: Cook Inlet, Alaska.

ABSTRACT: This Environmental Assessment analyzes the environmental impacts of the National Marine Fisheries Service, Office of Protected Resources proposed issuance of an Incidental Harassment Authorization, pursuant to section 101(a)(5)(D) of the Marine Mammal Protection Act, to ExxonMobil Alaska LNG LLC for the take of small numbers of marine mammals incidental to conducting geophysical and geotechnical surveys in Cook Inlet, Alaska.

DATE: August 2015

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LIST OF ACRONYMS AND ABBREVIATIONS

3D	three dimensional
ADF&G	Alaska Department of Fish and Game
ADCCE	Alaska Department of Commerce, Community, and Economic
ADNR	Alaska Department of Natural Resources
EMALL	ExxonMobil Alaska LNG LLC
AKRO	Alaska Regional Office
ANO	Alaska Native Organization
Apache	Apache Alaska Corporation
Authorization	Incidental Harassment Authorization
BOEM	Bureau of Ocean Energy Management
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CIMMC	Cook Inlet Marine Mammal Council
cui	cubic inches
dB re 1 μ Pa	decibel referenced to one microPascal
EA	Environmental Assessment
EFH	Essential Fish Habitat
EIS	Environmental Impact Statement
ESA	Endangered Species Act
EZ	Exclusion Zone
FONSI	Finding of No Significant Impact
ft	feet
FR	Federal Register
Hz	Hertz
JBER	Joint Base Elmendorf-Fort Richardson
KABATA	Knik Arm Bridge and Toll Authority
km	kilometer
km ²	square kilometer
LOA	Letters of Authorization
m	meter
mi	miles
mi ²	square miles
m ³ /sec	cubic meters per second
MHHW	Mean Higher High Water
MMPA	Marine Mammal Protection Act
NAO	NOAA Administrative Order
NEPA	National Environmental Policy Act

NMFS	National Marine Fisheries Service
NMML	National Marine Mammal Laboratory
NOAA	National Oceanic and Atmospheric Administration
OMB	Office of Management and Budget
OPR	Office of Protected Resources
PAM	Passive Acoustic Monitoring
PR1	Permits, Conservation and Educational Division
PRD	Protected Resources Division
PSO	Protected Species Observer
rms	root-mean-squared
SAE	SAExploration Inc.

Chapter 1 Introduction and Purpose and Need

1.1. Description of Proposed Action

The Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1631 *et seq.*) prohibits the incidental taking of marine mammals. The incidental take of a marine mammal falls under three categories: mortality, serious injury, or harassment, which includes injury and behavioral effects. The MMPA defines harassment as any act of pursuit, torment, or annoyance which: (1) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (2) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

There are exceptions, however, to the MMPA's prohibition on take. The National Marine Fisheries Service, Office of Protected Resources, Permits and Conservation Division (NMFS, hereinafter, we) may authorize the incidental taking of small numbers of marine mammals by harassment upon the request of a U.S. citizen provided we follow certain statutory and regulatory procedures and make determinations. We discuss this exception in more detail in section 1.2.

In response to a request from ExxonMobil Alaska LNG LLC (EMALL), we propose to issue an Incidental Harassment Authorization (Authorization) to EMALL under section 101(a)(5)(D) of the MMPA, which would allow EMALL to take small numbers of marine mammals, incidental to the conduct of geotechnical and geophysical survey operations in Cook Inlet, Alaska. We do not have the authority to permit, authorize, or prohibit EMALL's proposed survey operations under section 101(a)(5)(D) of the MMPA, as that authority lies with a different agency.

Our issuance of an Authorization to EMALL would be a major federal action under the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations in 40 CFR §§ 1500-1508, and NOAA Administrative Order (NAO) 216-6. Thus, we are required to analyze the effects on the human environment and determine whether they are significant.

This Environmental Assessment (EA), titled "*Issuance of an Incidental Harassment Authorization to ExxonMobil Alaska LNG LLC for the Take of Marine Mammals Incidental to Geotechnical and Geophysical Surveys in Cook Inlet, Alaska*," (hereinafter, EMALL EA) addresses the potential environmental impacts of three alternatives available to us under section 101(a)(5)(A) of the MMPA, namely:

- Issue an Authorization to EMALL for Level B harassment take of marine mammals under the MMPA during their survey program operations, taking into account the prescribed means of take, mitigation measures, and monitoring requirements required in the proposed Authorization;
- Not issue an Authorization to EMALL, in which case we assume that the EMALL would not proceed with the proposed activities; or
- Issue an Authorization to EMALL for Level B harassment take of marine mammals under the MMPA during the activities by incorporating additional required mitigation measures.

1.1.1. Background on EMALL's MMPA Application

EMALL proposes to conduct a geophysical and geotechnical survey in Cook Inlet, Alaska, for one open water season beginning in August 2015. The activity would occur for approximately twelve weeks. EMALL has proposed to survey an area of 912 km² with the primary objective to explore for and develop a suitable pipeline corridor route across Cook Inlet. Acoustic stimuli generated by a sub-bottom profiler chirp and boomer, vibracore, as well as a seismic airgun have the potential cause behavioral disturbances to marine mammals in the proposed project area.

1.1.2. Marine Mammals in the Action Area

The proposed survey program could adversely affect the following marine mammal species under our jurisdiction:

- Cook Inlet beluga whale (*Delphinapterus leucas*)
- Harbor seal (*Phoca vitulina richardsi*)
- Killer whale (*Orcinus orca*)
- Harbor porpoise (*Phocoena phocoena*)

1.2. Purpose and Need

The MMPA prohibits “takes” of marine mammals, with a number of specific exceptions. The applicable exception in this case is an authorization for incidental take of marine mammals in section 101(a)(5)(D) of the MMPA.

Section 101(a)(5)(D) of the MMPA directs the Secretary of Commerce (Secretary) to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if we make certain findings and an Authorization is issued.

We have issued regulations to implement the Incidental Take Authorization provisions of the MMPA (50 CFR Part 216) and have produced Office of Management and Budget (OMB)-approved application instructions (OMB Number 0648-0151) that prescribe the procedures necessary to apply for authorizations. All applicants must comply with the regulations at 50 CFR § 216.104 and submit applications requesting incidental take according to the provisions of the MMPA.

Purpose: The primary purpose of our proposed action is to authorize the take of marine mammals incidental to EMALL's proposed survey operation activities. The Authorization, if issued, would exempt EMALL from the take prohibitions contained in the MMPA.

To authorize the take of small numbers of marine mammals in accordance with section 101(a)(5)(D) of the MMPA, we must evaluate the best available scientific information to determine whether the take would have a negligible impact on marine mammals or stocks and would not have an unmitigable adverse impact on the availability of affected marine mammal species for certain subsistence uses.

In addition, we must prescribe, where applicable, the permissible methods of taking and other means of effecting the least practicable adverse impact on the species or stocks of marine mammals and their habitat (i.e., mitigation), paying particular attention to rookeries, mating grounds, and other areas of similar significance, and on the availability of the species or stocks of marine mammals for subsistence

uses. Authorizations must also include requirements or conditions pertaining to the monitoring and reporting of such taking.

Need: On June 8, 2015, EMALL submitted an adequate and complete application demonstrating both the need and potential eligibility for issuance of an Authorization for the activities described in section 1.1.1. We now have a corresponding duty to determine whether and how we can authorize take by Level B harassment incidental to the activities described in EMALL's application. Our responsibilities under section 101(a)(5)(D) of the MMPA and its implementing regulations establish and frame the need for this proposed action.

Any alternatives considered under NEPA must meet the agency's statutory and regulatory requirements. Our described purpose and need guide us in developing reasonable alternatives for consideration, including alternative means of mitigating potential adverse effects.

1.3. The Environmental Review Process

NEPA compliance is necessary for all "major" federal actions with the potential to significantly affect the quality of the human environment. Major federal actions include activities fully or partially funded, regulated, conducted, authorized, or approved by a federal agency. Because our promulgation and issuance of subsequent Authorizations would allow for the taking of marine mammals consistent with provisions under the MMPA and incidental to the applicant's activities, we consider this as a major federal action subject to NEPA.

Under the requirements of NAO 216-6 section 6.03(f)(2)(b) for incidental harassment authorizations, we prepared this EA to determine whether the direct, indirect and cumulative impacts related to the issuance of an Incidental Harassment Authorization for incidental take of marine mammals under the MMPA during the conduct of EMALL's survey program in Cook Inlet, Alaska, could be significant. If we deem the potential impacts to be not significant, this analysis, in combination with other analyses incorporated by reference, may support the issuance of a Finding of No Significant Impact (FONSI) for the proposed Authorization.

1.3.1. Laws, Regulations, or Other NEPA Analyses Influencing the EA's Scope

We have based the scope of the proposed action and nature of the three alternatives considered in this EA on the relevant requirements in section 101(a)(5)(D) of the MMPA. Thus, our authority under the MMPA bounds the scope of our alternatives. We conclude that this analysis—when combined with the analyses in the following documents—fully describes the impacts associated with the proposed survey program, including any required mitigation and monitoring measures. After conducting an independent review of the information and analyses for sufficiency and adequacy, we incorporate by reference the relevant analyses on EMALL's proposed survey as well as a discussion of the affected environment and environmental consequences within the following documents per 40 CFR 1502.21 and NAO 216-6 § 5.09(d):

- The proposed IHA *Federal Register* notice (80 FR 37465, June 30, 2015)
- *Application for Incidental Harassment Authorization for the Non-Lethal Harassment of Cetaceans and Pinnipeds: Alaska LNG Project 2015 Geophysical & Geotechnical Program in the Waters of Cook Inlet* (Alaska LNG, 2015)

- *BIOLOGICAL ASSESSMENT 2015 GEOPHYSICAL & GEOTECHNICAL PROGRAM IN THE WATERS OF COOK INLET* (Alaska LNG, 2015);
- *Final Supplemental Environmental Impact Statement—Cook Inlet Beluga Whale Harvest* (NMFS, 2008a); and
- *Final Conservation Plan for the Cook Inlet beluga whale (Delphinapterus leucas)* (NMFS, 2008b);

MMPA APPLICATION AND PROPOSED IHA

The CEQ regulations (40 CFR §1502.25) encourage federal agencies to integrate NEPA’s environmental review process with other environmental review laws. We rely substantially on the public process for developing proposed Authorizations and evaluating relevant environmental information and provide a meaningful opportunity for public participation as we develop corresponding EAs.

On June 30, 2015, we published a proposed IHA in the *Federal Register* (80 FR 37465), which included the following:

- a detailed description of the proposed action;
- an assessment of the potential impacts on marine mammals and the availability of marine mammals for subsistence uses;
- plans for EMALL’s mitigation and monitoring measures to avoid and minimize potential adverse impacts to marine mammals and their habitat;
- proposed reporting requirements; and
- our preliminary findings under the MMPA.

We preliminarily determined that the impact on marine mammals of conducting the proposed survey operations in Cook Inlet, Alaska, for a twelve week period, would result, at worst, in a modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals. In addition, we preliminarily determined that the proposed survey activities would not have an unmitigable adverse impact on the availability of marine mammals for subsistence uses. Finally, we set forth proposed mitigation measures that we preliminarily determined would effect the least practicable adverse impact on the species and stocks in the project area.

Within our notice, we requested that the public submit comments, information, and suggestions concerning EMALL’s request, the content of our proposed Authorization, and potential environmental effects related to the proposed issuance of the Authorization. This EMALL EA incorporates by reference and relies on EMALL’s application (EMALL, 2015), our notice of a proposed Authorization (80 FR 37465, June 30, 2015), and other environmental analyses (NMFS, 2008a,b,c, 2013a,b) to avoid duplication of analysis and unnecessary length.

In summary, those analyses concluded that with incorporation of monitoring and mitigation measures proposed by EMALL and NMFS, the proposed authorized taking of marine mammals would result in minor, short-term (recoverable) adverse effects on individuals of four species of marine mammals. Next, the Authorization would not result in individually insignificant, but cumulatively significant impacts, or in cumulative adverse effects that could have a substantial effect on the target species or non-target species. The frequency and duration of the harassment from the survey should allow adequate time for the

marine mammals to recover from potentially adverse effects. Finally, the analyses concluded that NMFS did not expect that additive or cumulative effects of the proposed survey on its own or in combination with other activities would occur. Finally, the environmental analyses did not identify any significant environmental issues or impacts.

1.3.2. Scope of Environmental Analysis

Given the limited scope of the decision for which we are responsible, this EA provides more focused information on the primary issues and impacts of environmental concern related specifically to our proposed issuance of an Authorization. This EA does not further evaluate effects to the elements of the human environment listed in Table 1 because previous environmental reviews, incorporated by reference (NMFS 2008a,b,c, 2013a,b) have shown that our limited action of issuing Authorizations for similar activities in Cook Inlet or EMALL's proposed survey would not significantly affect those components of the human environment.

Table 1. Components of the human environment not affected by our issuance of an Authorization.

Biological	Physical	Socioeconomic / Cultural
Amphibians	Air Quality	Commercial Fishing
Humans	Essential Fish Habitat	Military Activities
Non-Indigenous Species	Geography	Oil and Gas Activities
Seabirds	Land Use	Recreational Fishing
	Oceanography	Shipping and Boating
	State Marine Protected Areas	National Historic Preservation Sites
	Federal Marine Protected Areas	National Trails and Nationwide Inventory of Rivers
	National Estuarine Research Reserves	Low Income Populations
	National Marine Sanctuaries	Minority Populations
	Park Land	Indigenous Cultural Resources
	Prime Farmlands	Public Health and Safety
	Wetlands	Historic and Cultural Resources
	Wild and Scenic Rivers	
	Ecologically Critical Areas	

1.3.3. NEPA Public Involvement Summary

NAO 216-6 established agency procedures for complying with NEPA and the implementing NEPA regulations issued by the CEQ. Consistent with the intent of NEPA and the clear direction in NAO 216-6 to involve the public in NEPA decision-making, we issued a *Federal Register* notice of a proposed Authorization (80 FR 37465, June 30, 2015) that requested comments on the proposed Authorization and the potential environmental impacts of our issuance of an IHA. We also published a draft Environmental Assessment on the NMFS ITP webpage. The CEQ regulations further encourage agencies to integrate the NEPA review process with review under the environmental statutes. Consistent with agency practice, we

integrated our NEPA review and preparation of this EA with the public process required by the MMPA for the proposed issuance of an Authorization.

The *Federal Register* notice of the proposed Authorization, combined with our preliminary determinations, supporting analyses, and corresponding public comment period are instrumental in providing the public with information on relevant environmental issues and offering the public a meaningful opportunity to provide comments to us for consideration in both the MMPA and NEPA decision-making processes.

The *Federal Register* notice of the proposed Authorization summarized our proposed action; stated that we would prepare an EA for the proposed action; and invited interested parties to submit written comments concerning the application and our preliminary analyses and findings including those relevant to consideration in the EA. The notice of the proposed Authorization was available for public review and comment from June 30, 2015, through July 30, 2015. We received four public comment letters during that period. In general, the comments focused on aspects of the operations, the analysis of impacts on Cook Inlet beluga whales provided in the application and Federal Register notice announcing the proposed Authorization, and some of the proposed mitigation and monitoring measures. Based on these comments, NMFS made some adjustments in methodology used to calculate take in its analysis but was still able to meet the requirements for issuing an Authorization under the MMPA.

This process served the public participation function for this EA in terms of scoping for the action and providing the public a meaningful opportunity to participate in the process. In addition, we posted EMALL's application on our website concurrently with the release of the *Federal Register* notice of the proposed Authorization. We base this EA on the information included in our Federal Register notice of the proposed Authorization, the documents it references, and the public comments provided in response. At the conclusion of this process, we will post the final EA, and, if appropriate, FONSI, on our website.

1.4. Other Consultation Requirements

This section summarizes consultation requirements necessary to implement the proposed action.

1.4.1. Endangered Species Act

Section 7 of the ESA and implementing regulations at 50 CFR §402 require consultation with the appropriate federal agency (either NMFS or the U.S. Fish and Wildlife Service) for federal actions that "may affect" a listed species or critical habitat. NMFS' proposed issuance of an Authorization is a federal action subject to these section 7 consultation requirements. Accordingly, NMFS is required to ensure that its action is not likely to jeopardize the continued existence of any threatened or endangered species or result in destruction or adverse modification of critical habitat for such species.

There is one marine mammal species under NMFS' jurisdiction listed as endangered under the ESA with confirmed or possible occurrence in the proposed project area (i.e., Cook Inlet): the Cook Inlet beluga whale. Additionally, the proposed action falls within designated critical habitat for the Cook Inlet beluga whale. The NMFS Office of Protected Resources (OPR) Permits and Conservation Division (PR1) consulted with the NMFS Alaska Regional Office (AKRO) Protected Resources Division (PRD) on the proposed issuance of this Authorization under section 101(a)(5)(D) of the MMPA because the action of issuing the Authorization may affect endangered species under NMFS' jurisdiction.

On June 15, 2015, PR1 requested initiation of consultation under section 7 of the ESA regarding the proposed issuance of an Authorization to EMALL for the take of marine mammals incidental to conducting a geotechnical and geophysical survey in Cook Inlet, Alaska, for a twelve week period beginning in August 2015. This consultation will be concluded prior to making a final decision on whether to issue a final Authorization.

1.4.2. Marine Mammal Protection Act

The MMPA and its provisions that pertain to the proposed action are discussed above in section 1.2.

1.4.3. Magnuson-Stevens Fishery Conservation and Management Act

Under the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), Federal agencies are required to consult with the Secretary of Commerce with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency which may adversely affect essential fish habitat (EFH) identified under the MSFCMA. EFH has been identified in Cook Inlet for walleye Pollock, rock sole, Pacific cod, skate, weathervane scallop, Pacific salmon, and sculpin. NMFS' proposed action of authorizing harassment of marine mammals and our proposed mitigation and monitoring do not impact EFH; therefore, an EFH consultation was not conducted.

Chapter 2 Alternatives

2.1. Introduction

The NEPA and the implementing CEQ regulations (40 CFR §§ 1500-1508) require consideration of alternatives to proposed major federal actions, and NAO 216-6 provides agency policy and guidance on the consideration of alternatives to our proposed action. An EA must consider all reasonable alternatives, including the No Action Alternative. This provides a baseline analysis against which we can compare the other alternatives.

To warrant detailed evaluation as a reasonable alternative, an alternative must meet our purpose and need. In this case, as we previously explained, an alternative meets the purpose and need if it satisfies the requirements under section 101(a)(5)(D) the MMPA. We evaluated each potential alternative against these criteria; identified two action alternatives along with the No Action Alternative; and carried these forward for evaluation in this EA.

Alternatives 1 and 3 include a suite of mitigation measures intended to minimize potentially adverse interactions with marine mammals. This chapter describes the alternatives and compares them in terms of their environmental impacts and their achievement of objectives.

2.2. Description of EMALL's Proposed Activities

We presented a general overview of EMALL's proposed geophysical and geotechnical survey program operations in our proposed IHA *Federal Register* notice (80 FR 37465, June 30, 2015). We incorporate those descriptions by reference in this EA and briefly summarize them here.

2.2.1. Specified Time and Specified Area

EMALL proposes to operate in Cook Inlet offshore waters for approximately twelve weeks in open water periods beginning in August 2015. The proposed survey includes 63 days of operating the sub-bottom profiler chirp and boomer, 55 instances of vibracoring, as well as 7 days of seismic airgun use.

The proposed location of EMALL's activity encompasses approximately 912 km² (352 mi²) of offshore areas. A portion of EMALL's intended survey area is located in northern Cook Inlet near the Susitna Delta region. EMALL would only operate in a small portion of this Delta, near the southern border of beluga Critical Habitat Area 1. There are numerous factors that influence the survey areas, including the geology of the Cook Inlet area, other permitting restrictions (i.e., commercial fishing, Alaska Department of Fish and Game refuges), overlap of sources and receivers to obtain the necessary imaging data, and general operational restrictions (ice, weather, environmental conditions, marine life activity, etc.).

EMALL proposes to use two source vessels for the sub-bottom profiler/airgun, one for shallower operations and one for deeper operations. The source vessel would be equipped with one 60 cubic inch (in³) airgun, as well as a sub-bottom profiler chirp and boomer. This portion of the operation would utilize two source vessels (only one in use at a time), a vessel jack-up platform, and a tug. A separate vessel will be used for vibracoring.

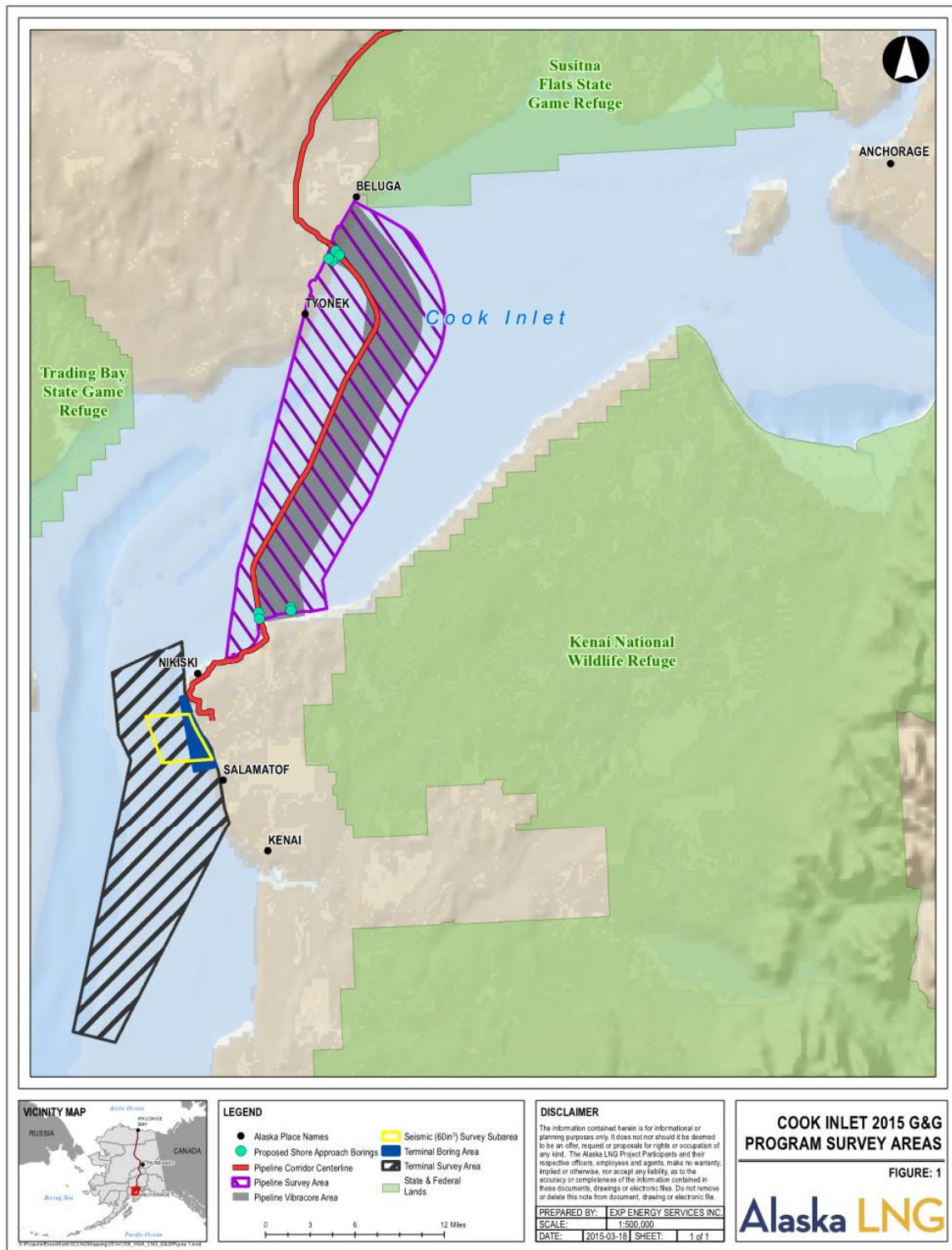


Figure 1. Proposed Project Area for EMALL's 2015 Survey

2.3. Description of Alternatives

2.3.1. Alternative 1 – Issuance of Authorizations with Mitigation Measures

The Proposed Action constitutes Alternative 1 and is the Preferred Alternative. Under this alternative, we would issue an Authorization to EMALL allowing the incidental take, by Level B harassment, of four species of marine mammals subject to the mandatory mitigation and monitoring measures and reporting requirements set forth in the proposed IHA, if issued, along with any additions based on consideration of public comments.

MITIGATION AND MONITORING MEASURES

As described in Section 1.2.1, we must prescribe the means of effecting the least practicable adverse impact on the species or stocks of marine mammals and their habitat. In order to do so, we must consider EMALL's proposed mitigation measures, as well as other potential measures, and assess how such measures could benefit the affected species or stocks and their habitat. Our evaluation of potential measures includes consideration of the following factors in relation to one another: (1) the manner in which, and the degree to which, we expect the successful implementation of the measures to minimize adverse impacts to marine mammals; (2) the proven or likely efficacy of the measures to minimize adverse impacts as planned; and (3) the practicability of the measures for applicant implementation.

Any additional mitigation measure proposed by us beyond what the applicant proposes should be able to or have a reasonable likelihood of accomplishing or contributing to the accomplishment of one or more of the following goals:

- Avoidance or minimization of marine mammal injury, serious injury, or death wherever possible;
- A reduction in the numbers of marine mammals taken (total number or number at biologically important time or location);
- A reduction in the number of times the activity takes individual marine mammals (total number or number at biologically important time or location);
- A reduction in the intensity of the anticipated takes (either total number or number at biologically important time or location);
- Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base; activities that block or limit passage to or from biologically important areas; permanent destruction of habitat; or temporary destruction/disturbance of habitat during a biologically important time; and
- For monitoring directly related to mitigation, an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

To reduce the potential for disturbance from acoustic stimuli associated with the activities, EMALL has proposed to implement several monitoring and mitigation measures for marine mammals. NMFS has proposed some additional measures. The proposed monitoring and mitigation measures include:

- (1) Utilize NMFS-qualified, vessel-based Protected Species Observers (PSOs) to visually watch for and monitor marine mammals near the source vessels during daytime operations (from nautical twilight-dawn to nautical twilight-dusk) and before and during start-ups of sound sources day or

night. Two PSOs would be on each source vessel, and two PSOs would be on the support vessel to observe the exclusion and disturbance zones. When practicable, as an additional means of visual observation, EMALL's vessel crew may also assist in detecting marine mammals.

- (2) Establish a relevant 120 dB or 160 dB re 1 μ Pa (rms) "disturbance zone" and a 180 dB re 1 μ Pa (rms) and 190 dB re 1 μ Pa (rms) "exclusion zone" (EZ) for marine mammals before the vibracore, airgun, or sub-bottom profiler is in operation. EMALL must also establish a 160 dB re 1 μ Pa (rms) zone for belugas and groups of five or more harbor porpoises and killer whales before the sound sources mentioned above are in operation.
- (3) Visually observe the entire extent of the EZ (180 dB re 1 μ Pa [rms] for cetaceans and 190 dB re 1 μ Pa [rms] for pinnipeds and the 160 dB re 1 μ Pa [rms] for belugas and groups of five or more harbor porpoises and killer whales) using NMFS-qualified PSOs, for at least 30 minutes (min) prior to starting the sound sources as well as 30 minutes after the cessation of active sound sources. If the PSO finds a marine mammal within the EZ, EMALL must delay the survey until the marine mammal(s) has left the area. If the PSO sees a marine mammal that surfaces, then dives below the surface, the PSO shall wait 30 min. If the PSO sees no marine mammals during that time, they should assume that the animal has moved beyond the EZ. If for any reason the entire radius cannot be seen for the entire 30 min (i.e., rough seas, fog, darkness), or if marine mammals are near, approaching, or in the EZ, the sound sources may not be started up.
- (4) Alter speed or course during operations if a marine mammal, based on its position and relative motion, appears likely to enter the relevant EZ. If speed or course alteration is not safe or practicable, or if after alteration the marine mammal still appears likely to enter the EZ, further mitigation measures, such as a shutdown, shall be taken.
- (5) Shutdown the sound source(s) if a marine mammal is detected within, approaches, or enters the relevant EZ. A shutdown means all operating sound sources are shut down (i.e., turned off).
- (6) Following a shutdown and subsequent animal departure, survey operations may resume following procedures described above.
- (7) Marine geophysical surveys may continue into night and low-light hours if such segment(s) of the survey is initiated when the entire relevant EZs can be effectively monitored visually (i.e., PSO(s) must be able to see the extent of the entire relevant EZ).
- (8) No initiation of survey operations involving the use of sound sources is permitted from a shutdown position at night or during low-light hours (such as in dense fog or heavy rain).
- (9) If a beluga whale or groups of five or more killer whales and/or harbor porpoises are visually sighted approaching or within the 160-dB disturbance zone, survey activity would not commence until the animals are no longer present within the 160-dB disturbance zone.
- (10) Whenever beluga whales or groups of five or more killer whales and/or harbor porpoises are detected approaching or within the 160-dB disturbance zone, the sound sources shall be shut-down until the animals are no longer present within the 160-dB zone.
- (11) Survey operations involving the use of vibracore, air guns, and sub-bottom profiler chirp and boomers must cease if authorized numbers of takes of any marine mammal are met or exceeded.

In addition to the mitigation measures proposed by EMALL, we have proposed additional mitigation measures:

- (1) Suspending operations if a live marine mammal stranding is reported in Cook Inlet coincident to, or within 72 hours of activities involving the use of vibracore, airguns, or sub-bottom profiler. The shutdown must occur if the animal is within a distance two times that of the 160 dB isopleth of the sound source. Shutdown procedures will remain in effect until NMFS determines that, and advises EMALL that, all live animals involved in the stranding have left the area (either of their own volition or following herding by responders).
- (2) EMALL must not operate any of the above-mentioned technologies within 10 miles (16 km) of the mean higher high water (MHHW) line of the Susitna Delta (Beluga River to the Little Susitna River) between April 15 and October 15 (to avoid any effects to belugas in an important feeding and breeding area).
- (3) If any marine mammal species are encountered during activities for which take is not authorized are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 160 dB re 1 μ Pa (rms), then EMALL must alter speed or course, power down or shut-down the sound source to avoid take.

EMALL proposes to sponsor marine mammal monitoring during the present project, in order to implement the mitigation measures that require real-time monitoring and to satisfy the monitoring requirements of the Authorization. EMALL would monitor the area for marine mammals during all activities. Monitoring would be conducted from vessels. Monitoring data would include the following:

- (1) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from source vessel, sighting cue, apparent reaction to the sound source or vessel (e.g., none, avoidance, approach, paralleling, etc., and including responses to ramp-up), and behavioral pace; and
- (2) Time, location, heading, speed, activity of the vessel (including type of sound source operating and whether in state of operation or shutdown), Beaufort sea state and wind force, visibility, and sun glare. These data shall also be recorded at the start and end of each observation watch and during a watch whenever there is a change in one or more of the variables.

For reasons explained in the Federal Register notice of the proposed IHA, PAM was not considered practicable to require under this proposed Authorization. Given the limited capability of various PAM methodologies for EMALL's project in Cook Inlet (see Austin and Zeddies, 2012 for more information), as compared to visual monitoring methods, a bottom-mounted telemetry buoy and omni-directional hydrophone are not considered practicable, and are not proposed to be a component of the EMALL's survey.

REPORTING MEASURES

EMALL would submit a weekly field report to NMFS, no later than close of business each Thursday during the weeks when in-water survey activities take place. The weekly field reports would summarize species detected (number, location, distance from source vessel, behavior), in-water activity occurring at the time of the sighting (sounds sources active and state of operation at time of sighting, visual plots of sightings, and number of power downs and shutdowns), behavioral reactions to in-water activities, and the number of marine mammals exposed. Additionally, EMALL would submit a monthly report, no later than the 15th of each month, to NMFS' Permits and Conservation Division for all months during which in-water survey activities for which an Authorization is proposed occur. These reports must contain and summarize the following information:

- (1) Dates, times, locations, heading, speed, weather, sea conditions (including Beaufort sea state and wind force), and associated activities during all sound source operations and marine mammal sightings;
- (2) Species, number, location, distance from the vessel, and behavior of any marine mammals, as well as associated activity (number of shutdowns), observed throughout all monitoring activities;
- (3) An estimate of the number (by species) of: (A) pinnipeds that have been exposed to the activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μ Pa (rms) and/or 190 dB re 1 μ Pa (rms) with a discussion of any specific behaviors those individuals exhibited; and (B) cetaceans that have been exposed to the activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μ Pa (rms) and/or 180 dB re 1 μ Pa (rms) with a discussion of any specific behaviors those individuals exhibited; and
- (4) A description of the implementation and effectiveness of the: (A) terms and conditions of the Biological Opinion's Incidental Take Statement (ITS); and (B) mitigation measures of the Authorization. For the Biological Opinion, the report shall confirm the implementation of each Term and Condition, as well as any conservation recommendations, and describe their effectiveness, for minimizing the adverse effects of the action on ESA-listed marine mammals.

EMALL would submit an annual report to NMFS' Permits and Conservation Division within 90 days after the end of the operating season. The annual report would include:

- (1) Summaries of monitoring effort (e.g., total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals);
- (2) Analyses of the effects of various factors influencing detectability of marine mammals (e.g., sea state, number of observers, and fog/glare);
- (3) Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover;
- (4) Analyses of the effects of survey operations; and
- (5) Sighting rates of marine mammals during periods with and without survey activities (and other variables that could affect detectability), such as: (A) initial sighting distances versus survey activity state; (B) closest point of approach versus survey activity state; (C) observed behaviors and types of movements versus survey activity state; (D) numbers of sightings/individuals seen versus survey activity state; (E) distribution around the source vessels versus survey activity state; and (F) estimates of take by Level B harassment based on presence in the 160 dB harassment zone.

NMFS would review the draft annual reports. EMALL must then submit a final annual report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft annual report. If NMFS decides that the draft annual report needs no comments, the draft report shall be considered to be the final report.

In addition to these formal reports, EMALL must immediately report to NMFS if 20 belugas are cumulatively detected within the 160 dB re 1 μ Pa (rms) disturbance zone during survey operations to allow NMFS to consider making necessary adjustments to monitoring and mitigation.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this proposed Authorization, such as an injury (Level A harassment), serious injury or mortality (e.g., ship-strike, gear interaction, and/or entanglement), EMALL shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, and the Alaska Regional Stranding Coordinators. The report must include the following information:

- (1) Time, date, and location (latitude/longitude) of the incident;
- (2) The name and type of vessel involved;
- (3) The vessel's speed during and leading up to the incident;
- (4) Description of the incident;
- (5) Status of all sound source use in the 24 hours preceding the incident;
- (6) Water depth;
- (7) Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- (8) Description of marine mammal observations in the 24 hours preceding the incident;
- (9) Species identification or description of the animal(s) involved;
- (10) The fate of the animal(s); and
- (11) Photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with EMALL to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. EMALL may not resume their activities until notified by NMFS via letter or email, or telephone.

In the event that EMALL discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), EMALL would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, and the NMFS Alaska Stranding Hotline. The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS would work with EMALL to determine whether modifications in the activities are appropriate.

In the event that EMALL discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), EMALL shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, her designees, the NMFS Alaska Stranding Hotline, and the Alaska Regional Stranding Coordinators within 24 hours of the discovery. EMALL shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

In our *Federal Register* notice of proposed Authorization, which we incorporate by reference, we preliminarily determined that the measures included in the proposed Authorization were sufficient to

reduce the effects of EMALL's proposed survey operations on marine mammals to the level of least practicable adverse impact. In addition, we described our analysis of impacts and preliminarily determined that the taking of small numbers of marine mammals, incidental to EMALL's proposed survey operations would have a negligible impact on the relevant species or stocks and would not have an unmitigable adverse impact on affected species or stocks for taking for subsistence uses.

Accordingly, this Preferred Alternative would satisfy the purpose and need of our proposed action under the MMPA—issuance of an Authorization, along with required mitigation measures and monitoring that meets the standards set forth in section 101(a)(5)(D) of the MMPA and the implementing regulations. In response to a comment from the Marine Mammal Commission, NMFS is requiring a 30 minute post-activity monitoring period by vessel-based PSOs.

2.3.2. Alternative 2 – No Action Alternative

We are required to evaluate the No Action Alternative per CEQ NEPA regulations. The No Action Alternative serves as a baseline against which to compare the impacts of the Preferred and other alternatives. Under the No Action Alternative, we would not issue an Authorization under the MMPA.

For the purpose of this EA, we assume that if we do not authorize incidental take, EMALL would not conduct the survey. If the survey is not conducted, the “No Action” alternative would result in no disturbance to marine mammals because of the absence of the proposed activities. The No Action Alternative is not considered a reasonable alternative because it does not meet the purpose and need for NMFS' Proposed Action; however, per CEQ regulations it is included and carried forward for analysis.

2.3.3. Alternative 3—Issuance of Authorizations with Additional Mitigation and Monitoring Measures

Under Alternative 3, we would issue an Authorization to EMALL allowing the incidental take, by Level B harassment, of four species of marine mammals subject to the mandatory mitigation and monitoring measures and reporting requirements set forth in the proposed IHA, if issued, along with additional mitigation measures. While all of the mitigation, monitoring, and reporting measures that would be required under Alternative 1 would also be required under Alternative 3, the difference under this alternative is that additional mitigation and monitoring measures would be required. Additional measures that would be required by NMFS under this alternative include: a 120-dB monitoring (and safety) zone for beluga whale cow/calf pairs in Cook Inlet; active acoustic monitoring; and the use of unmanned aerial vehicles to conduct aerial monitoring. At this time, the technologies for unmanned aerial vehicle monitoring and effective acoustic monitoring in Cook Inlet are still being developed or refined. For example, while there has been some testing of unmanned aerial vehicles conducted recently, the technology has not yet been proven effective for monitoring or mitigation as would be required under an Authorization. It is also not feasible to visually observe the 120dB zone from aboard a vessel due to the large distance it encompasses. However, once the monitoring technologies are either developed or refined, they may allow for increased effectiveness in implementing mitigation measures (e.g., shutdown), which would reduce potential impacts to marine mammals even further in future Authorizations.

2.3.4. Alternatives Considered but Eliminated from Further Consideration

NMFS considered whether other alternatives could meet the purpose and need and support EMALL's proposed activities. An alternative that would allow for the issuance of an Authorization with no required mitigation or monitoring was considered but eliminated from consideration, as it would not be in compliance with the MMPA and therefore would not meet the purpose and need. For that reason, this alternative is not analyzed further in this document. In addition, an alternative that would have included time/area restrictions beyond the one already considered in Alternatives 1 and 3 in the Susitna Delta was considered but eliminated from consideration because such measures were unnecessary given the timing and location of the survey. Belugas are highly concentrated in the Susitna Delta in the summer months, therefore NMFS determined that the 10 mile buffer during April through October considered in Alternatives 1 and 3 reflects the appropriate time period for time/area restrictions.

Chapter 3 Affected Environment

This chapter describes existing conditions in the proposed action area. Complete descriptions of the physical, biological, and social environment of the action area are contained in the documents listed in Section 1.3.1 of this EA. We incorporate those descriptions by reference and briefly summarize or supplement the relevant sections for marine mammals in the following subchapters.

3.1. Physical Environment

As discussed in Chapter 1, our proposed action and alternatives relate only to the authorization of incidental take of marine mammals and not to the physical environment. Analysis of certain aspects of the physical environment are not relevant to our proposed action (see subchapter 1.3.2 - Scope of Environmental Analysis).

3.1.1. Marine Mammal Habitat

We presented information on marine mammal habitat and the potential impacts to marine mammal habitat in the *Federal Register* notice of the proposed IHA. In summary, beluga whales, harbor porpoise, and harbor seals use the waters of Cook Inlet for foraging, calving, and other important life history functions. The mouths of river streams are important beluga whale feeding habitat. Harbor seals also use coastal haul-outs in Cook Inlet. Killer whales more commonly use the lower Cook Inlet area, which is included in some of the survey operation area.

Pursuant to the ESA, critical habitat has been designated for Cook Inlet beluga. The proposed action falls within critical habitat designated in Cook Inlet for beluga whales. On April 11, 2011, NMFS announced the two areas of critical habitat (76 FR 20180) comprising 7,800 km² (3,013 mi²) of marine habitat (Figure 2). Critical habitat includes two areas (Areas 1 and 2) that encompass 7,800 km² of marine and estuarine habitat in Cook Inlet¹. Designated beluga whale Critical Habitat Area 1 consists of 1,909 km² of Cook Inlet, north of Three Mile Creek and Point Possession. Critical Habitat Area 1 contains shallow tidal flats or mudflats and mouths of rivers that provide important areas for foraging, calving, molting, and escape from predators. High concentrations of beluga whales are often observed in these areas from spring through fall. Additionally, anthropogenic threats have the greatest potential to adversely impact beluga whales and their habitat in Critical Habitat Area 1. Critical Habitat Area 2 consists of 5,891 km²

¹ For national security reasons, critical habitat excludes all property and waters of JBER and waters adjacent to the Port of Anchorage (Figure 2 Insert).

located south of Critical Habitat Area 1 and includes nearshore areas along western Cook Inlet and Kachemak Bay. Critical Habitat Area 2 is known fall and winter foraging and transit habitat for beluga whales, as well as spring and summer habitat for smaller concentrations of beluga whales. EMALL's proposed exploration survey operation area is 912 km². None of EMALL's proposed survey area is in the designated beluga whale Critical Habitat Area 1, although some of the survey area is within the 10 mile seasonal buffer for Critical Habitat 1 described above. A portion of the lower inlet section of the proposed survey is in the designated beluga whale Critical Habitat Area 2.

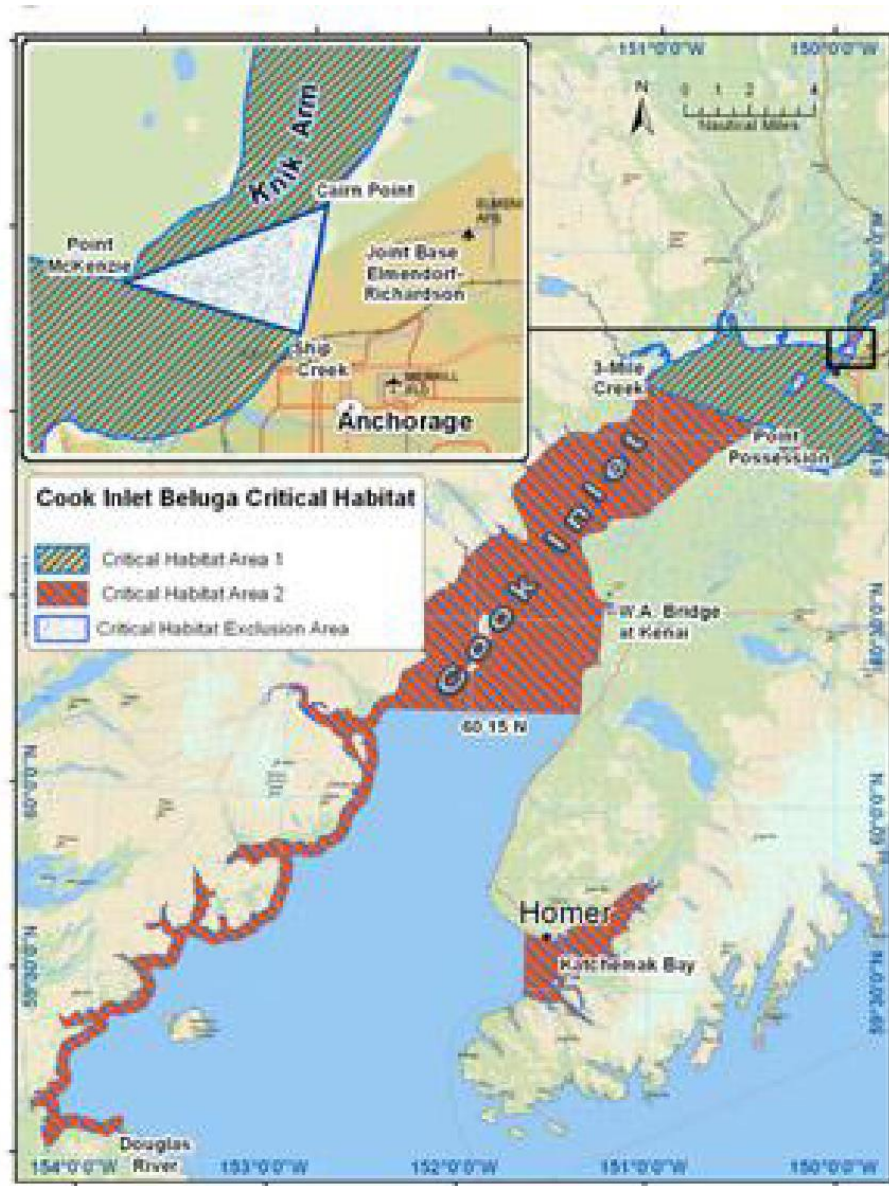


Figure 2. Final critical habitat of Cook Inlet beluga whales (76 FR 20180, April 11, 2011).

3.2. Biological Environment

3.2.1. Marine Mammals

We provide information on the occurrence of marine mammals most likely present in the proposed survey area in section 1.1.2 of this EA. The marine mammals most likely to be harassed incidental to conducting the survey program are: Cook Inlet beluga whale, harbor seal, killer whale, and harbor porpoise (Shelden et al. 2003). While killer whales have been sighted in upper Cook Inlet, their occurrence is considered rare. Cook Inlet beluga whales, harbor porpoises, and harbor seals are the species most likely to be sighted during the survey. Recent PAM research indicated harbor porpoises occur more frequently in the project area than was previously estimated based solely on visual observations (NMML 2011, personal communication). Table 2 provides a summary of the abundance and status of the species likely to occur in the survey operations area. We provided information on the distribution, population size, and conservation status for each species in the proposed IHA *Federal Register* notice, and we incorporate those descriptions by reference here. We briefly summarize this information here. The proposed IHA *Federal Register* notice, EMALL's application (EMALL, 2015) and the Biological Assessment (EMALL, 2015) contain detailed information on life history functions, hearing abilities, and distribution, which is also incorporated by reference and briefly summarized below. Table 3 provides information on hearing ranges of marine mammals.

Table 2. Abundance estimates, conservation status, and population trends of the marine mammal species for which take is proposed to be authorized.

Species	Stock	ESA/MMPA status ¹ ; Strategic (Y/N)	Stock abundance (CV, N _{min} , most recent abundance survey) ²	Relative occurrence in Cook Inlet; season of occurrence
Killer whale	Alaska Resident	-;N	2,347 (N/A; 2,084; 2009)	Occasionally sighted in Lower Cook Inlet
	Alaska Transient	-;N	345 (N/A; 303; 2003)	
Beluga whale	Cook Inlet	E/D;Y	312 (0.10; 280; 2012)	Use upper Inlet in summer and lower in winter: annual
Harbor porpoise	Gulf of Alaska	-;Y	31,046 (0.214; 25,987; 1998)	Widespread in the Inlet: annual (less in winter)
Harbor seal	Cook Inlet/Shelikof	-;N	22,900 (0.053; 21,896; 2006)	Frequently found in upper and lower inlet; annual (more in northern Inlet in summer)

Table 3. Classification of marine mammals that could potentially occur in the proposed exploratory drilling site and for which take is proposed to be authorized by functional hearing groups (Southall et al. 2007; NMFS 2013c).

Mid-Frequency Hearing Range (150 Hz to 160 kHz)	Killer and beluga whales
High Frequency Hearing Range (200 Hz to 180 kHz)	Harbor porpoise

Phocid in Water Hearing Range (75 Hz to 100 kHz)	Harbor seal
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3.2.2. ESA-listed Marine Mammals

Cook Inlet Beluga Whale

Beluga whales appear seasonally throughout Alaskan waters, except in the Southeast region and the Aleutian Islands. Five stocks are recognized in Alaska: Beaufort Sea stock, eastern Chukchi Sea stock, eastern Bering Sea stock, Bristol Bay stock, and Cook Inlet stock (Allen and Angliss 2013). The Cook Inlet stock is the most isolated of the five stocks, as it is separated from the others by the Alaska Peninsula and resides year round in Cook Inlet (Laidre et al. 2000). Only the Cook Inlet stock inhabits the proposed survey area.

NMFS began comprehensive, systematic aerial surveys on beluga whales in Cook Inlet in 1994. Unlike previous efforts, these surveys included the upper, middle, and lower inlet. These surveys documented a decline in abundance of nearly 50 percent between 1994 and 1998, from an estimate of 653 to 347 whales (Rugh et al. 2000). In response to this decline, NMFS initiated a status review on the Cook Inlet beluga whale stock pursuant to the MMPA and the ESA in 1998 (63 FR 64228, November 19, 1998). The annual abundance surveys conducted each June since 1999 provide the following abundance estimates: 357 beluga whales in 1999, 435 beluga whales in 2000, 386 beluga whales in 2001, 313 beluga whales in 2002, 357 beluga whales in 2003, 366 beluga whales in 2004, 278 beluga whales in 2005, 302 beluga whales in 2006, 375 beluga whales in 2007; 321 beluga whales in 2009; 340 beluga whales in 2010; 284 whales in 2011; 312 whales in 2012 (Hobbs et al. 2000; Rugh et al. 2003, 2004a, 2004b, 2005a, 2005b, 2005c, 2006, 2007, 2010; NMFS 2010; Hobbs et al. 2011, Sheldon et al. 2012). The overall population trend for the past 10 years for Cook Inlet beluga whales shows them not recovering and still in decline at an annual rate of 0.6 percent

(<http://www.alaskafisheries.noaa.gov/newsreleases/2013/cibelugapop2012.htm>).

Figure 3 depicts the distribution of beluga whales in upper Cook Inlet and is based upon NMML data including NMFS aerial surveys. Additional information on beluga whale distribution is known from NMFS data from satellite-tagged belugas, and opportunistic sightings (NMML 2004); baseline studies of beluga whale occurrence in Knik Arm conducted for KABATA (Funk et al. 2005); baseline studies of beluga whale occurrence in Turnagain Arm conducted in preparation for Seward Highway improvements (Markowitz et al. 2007); marine mammal surveys conducted at Ladd Landing to assess a coal shipping project (Prevel Ramos et al. 2008); and marine mammal surveys off Granite Point, the Beluga River, and further down the inlet at North Ninilchik (Brueggeman et al. 2007a, 2007b, 2008).

The collective NMFS aerial survey results show that beluga whales have been consistently found near or in river mouths along the northern shores of upper Cook Inlet (i.e., north of East and West Foreland). In particular, beluga whale groups are seen in the Susitna River Delta, Knik Arm, and along the shores of Chickaloon Bay. Small groups were reported farther south in Kachemak Bay, Redoubt Bay (Big River), and Trading Bay (McArthur River) prior to 1996, but very rarely thereafter. Since the mid-1990s, most (96 to 100 percent) beluga whales in upper Cook Inlet have been concentrated in shallow areas near river mouths, no longer occurring in the central or southern portions of Cook Inlet (Hobbs et al. 2008). Based on these aerial surveys, the concentration of beluga whales in the northernmost portion of Cook Inlet

appears to be fairly consistent from June to October (Rugh et al. 2000, 2004a, 2005a, 2006, 2007; Shelden et al. 2008, 2009, 2010).

Other studies and monitoring programs have revealed additional information about beluga whale distribution in Cook Inlet. Studies for KABATA in 2004 and 2005 confirmed the use of Knik Arm by beluga whales from July to October (Funk et al. 2005). Data from tagged whales (14 tags between July and March 2000 through 2003) show beluga whales use upper Cook Inlet intensively between summer and late autumn (Hobbs et al. 2005). As late as October, beluga whales tagged with satellite transmitters continued to use Knik Arm and Turnagain Arm and Chickaloon Bay, but some ranged into lower Cook Inlet south to Chinitna Bay, Tuxedni Bay, and Trading Bay (McArthur River) in the fall (Hobbs et al. 2005). In November, beluga whales moved between Knik Arm, Turnagain Arm, and Chickaloon Bay, similar to patterns observed in September (Hobbs et al. 2005). By December, beluga whales were distributed throughout the upper to mid-inlet. From January into March, they moved as far south as Kalgin Island and slightly beyond in central offshore waters. Beluga whales also made occasional excursions into Knik Arm and Turnagain Arm in February and March in spite of ice cover greater than 90 percent (Hobbs et al. 2005). While they moved widely around Cook Inlet there was no indication from the tagged whales (Hobbs et al. 2005) that beluga whales had a seasonal migration in and out of Cook Inlet.

Depending upon the season, beluga whales can occur in both offshore and coastal waters. Although they remain in the general Cook Inlet area during the winter, they disperse throughout the upper and mid-inlet areas. Data from NMFS aerial surveys, opportunistic sighting reports, and satellite-tagged beluga whales confirm they are more widely dispersed throughout Cook Inlet during the winter months (November-April), with animals found between Kalgin Island and Point Possession. Based upon monthly surveys (e.g., Rugh et al. 2000), opportunistic sightings, and satellite-tag data, there are generally fewer observations of these whales in the Anchorage and Knik Arm area from November through April (NMML 2004; Rugh et al. 2004a).

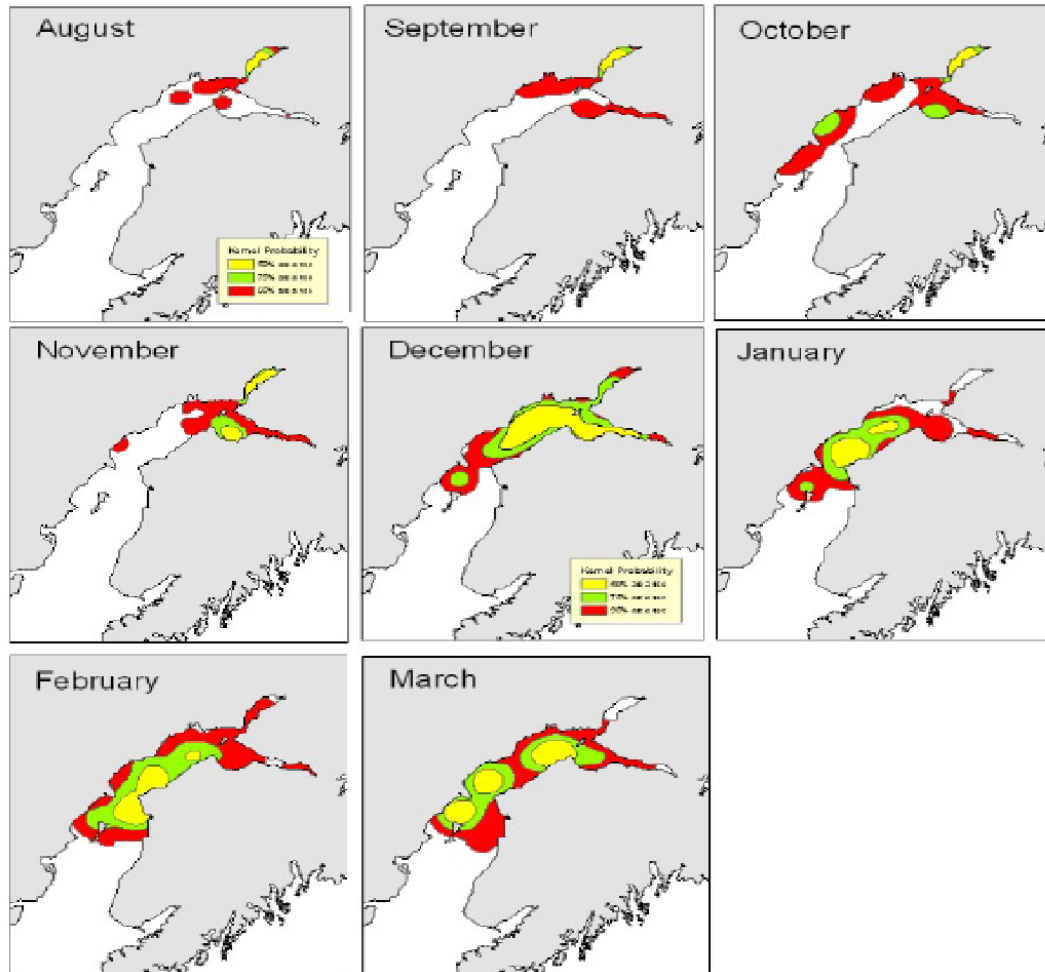


Figure 3. Predicted beluga distribution by month based upon known locations of 14 satellite tagged belugas (predictions derived via kernel probability estimates; Hobbs et al. 2005). Note the large increase in total area use and offshore locations beginning in December and continuing through March. The red area (95 percent probability) encompasses the green (75 percent) and yellow (50 percent) regions. From NMFS 2008b.

During the spring and summer, beluga whales are generally concentrated near the warmer waters of river mouths where prey availability is high and predator occurrence is low (Moore et al. 2000). Most beluga whale calving in Cook Inlet occurs from mid-May to mid-July in the vicinity of the river mouths, although Native hunters have described calving as early as April and as late as August (Huntington 2000).

Beluga whale concentrations in upper Cook Inlet during April and May correspond with eulachon migrations to rivers and streams in the northern portion of upper Cook Inlet (NMFS 2003; Angliss and Outlaw 2005). Data from NMFS aerial surveys, opportunistic sightings, and satellite-tagged beluga whales confirm that they are concentrated along the rivers and nearshore areas of upper Cook Inlet (Susitna River Delta, Knik Arm, and Turnagain Arm) from May through October (NMML 2004; Rugh et al. 2004a). Beluga whales are commonly seen from early July to early October at the mouth of Ship Creek where they feed on salmon and other fish, and also in the vicinity of the Port (e.g., alongside docked ships and within 300 ft of the docks) (Blackwell and Greene 2002; NMML 2004). Beluga whales have also

been observed feeding immediately offshore of the tidelands north of the Port and south of Cairn Point (NMFS 2004).

3.2.3. Non-ESA Listed Marine Mammals

Harbor Seal

Harbor seals inhabit the coastal and estuarine waters of Cook Inlet. In general, harbor seals are more abundant in lower Cook Inlet than in upper Cook Inlet, but they do occur in the upper inlet throughout most of the year (Rugh et al. 2005). Harbor seals are non-migratory; their movements are associated with tides, weather, season, food availability, and reproduction. The major haulout sites for harbor seals are located in lower Cook Inlet, and their presence in the upper inlet coincides with seasonal runs of prey species. For example, harbor seals are commonly observed along the Susitna River and other tributaries along upper Cook Inlet during the eulachon and salmon migrations (NMFS, 2003). During aerial surveys of upper Cook Inlet in 2001, 2002, and 2003, harbor seals were observed 24 to 96 km (15 to 60 mi) south-southwest of Anchorage at the Chickaloon, Little Susitna, Susitna, Ivan, McArthur, and Beluga Rivers (Rugh et al., 2005). During the 2D test program in March 2011, two harbor seals were observed by vessel-based PSOs. Harbor seals haul out on rocks, reefs, beaches, and drifting glacial ice, and feed on capelin, eulachon, cod, pollock, flatfish, shrimp, octopus, and squid in marine, estuarine, and occasionally fresh waters.

Killer Whale

Numbers of killer whales in Cook Inlet are small compared to the overall population and most are recorded in the lower Cook Inlet. Killer whales are rare in upper Cook Inlet, where transient killer whales are known to feed on beluga whales, and resident killer whales are known to feed on anadromous fish (Shelden et al. 2003). The availability of these prey species largely determines the likeliest times for killer whales to be in the area. Twenty-three sightings of killer whales were reported in the lower Cook Inlet between 1993 and 2004 in aerial surveys by Rugh et al. (2005a). Surveys over 20 years by Shelden et al. (2003) reported 11 sightings in upper Cook Inlet between Turnagain Arm, Susitna Flats, and Knik Arm. No killer whales were spotted during surveys by Funk et al. (2005), Ireland et al. (2005), Brueggeman et al. (2007a, 2007b, 2008), or Prevel Ramos et al. (2006, 2008). Eleven killer whale strandings have been reported in Turnagain Arm, six in May 1991, and five in August 1993. Very few killer whales, if any, are expected to approach or be in the vicinity of the survey operations area.

Harbor Porpoise

The most recent estimated density of animals in Cook Inlet is 7.2 per 1,000 km² (386 mi²) (Dahlheim et al. 2000) indicating that only a small number use Cook Inlet. Harbor porpoise have been reported in lower Cook Inlet from Cape Douglas to the West Foreland, Kachemak Bay, and offshore (Rugh et al. 2005a). Small numbers of harbor porpoises have been consistently reported in the Upper Cook Inlet between April and October, except for a recent survey that recorded higher numbers than typical. Highest monthly counts include 17 harbor porpoises reported for spring through fall 2006 by Prevel Ramos et al. (2008), 14 for spring of 2007 by Brueggeman et al. (2007a), 12 for fall of 2007 by Brueggeman et al. (2008), and 129 for spring through fall in 2007 by Prevel Ramos et al. (2008) between Granite Point and the Susitna River during 2006 and 2007; the reason for the recent spike in numbers (129) of harbor porpoises in the upper Cook Inlet is unclear and quite disparate with results of past surveys, suggesting it may be an anomaly. The spike occurred in July, which was followed by sightings of 79 harbor porpoise in August,

78 in September, and 59 in October in 2007. The number of porpoises counted more than once was unknown. Therefore, because we lack information regarding double counting, it is possible that the actual numbers are smaller than reported. On the other hand, recent passive acoustic research in Cook Inlet by ADF&G and NMML have indicated that harbor porpoises occur more frequently than expected, particularly in the West Foreland area in the spring (NMFS 2011, personal communication), although overall numbers are still unknown at this time. In 2012, Apache marine mammal observers recorded 137 sightings of 190 estimated individuals; a similar count to the 2007 spike previously observed. Although only 0.7 percent of the Gulf of Alaska population, the increase of sightings in the upper Cook Inlet may reflect movement of harbor porpoise distribution than previously known.

3.3. Socioeconomic Environment

3.3.1. Subsistence

Near the proposed survey, Tyonek is a Dena'ina Athabascan village practicing a subsistence lifestyle. The Village of Tyonek lies on a bluff on the northwest shore of Cook Inlet and has no interconnected road access. According to Census 2010, there were 144 housing units in the community and 70 were occupied. Its population was 88.3 percent American Indian or Alaska Native; 5.3 percent white; 6.4 percent of the local residents had multi-racial backgrounds (ADCCE 2010).

The principal wild foods harvested and consumed by Dena'ina communities are fish, land mammals (moose), and marine mammals. Salmon consistently provides the major portion of the region's subsistence food, and sockeye is the most harvested. Shellfish, plants, and birds and eggs each make up approximately 2% of the total annual harvest (BOEM 2003).

Native hunters historically have hunted beluga whales and harbor seals for food. The subsistence harvest of beluga transcends nutritional and economic value of the whale as the harvest is an integral part of the cultural identity of the region's Alaska Native communities. Inedible parts of the whale provide Native artisans with materials for cultural handicrafts, and the hunting perpetuates Native traditions by transmitting traditional skills and knowledge to younger generations. However, due to dramatic declines in the Cook Inlet beluga whale population, on May 21, 1999, legislation was passed to temporarily prohibit (until October 1, 2000) the taking of Cook Inlet belugas under the subsistence harvest exemption in section 101(b) of the MMPA without a cooperative agreement between NMFS and the affected Alaska Native Organizations (ANOs) (Public Law No. 106-31, section 3022, 113 Stat. 57,100). That prohibition was extended indefinitely on December 21, 2000 (Public Law No. 106-553, section 1(a)(2), 114 Stat. 2762). NMFS subsequently entered into six annual co-management agreements (2000-2003, 2005-2006) with the Cook Inlet Marine Mammal Council, an ANO representing Cook Inlet beluga hunters, which allowed for the harvest of 1-2 belugas.

On October 15, 2008, NMFS published a final rule that established long-term harvest limits on Cook Inlet beluga whales that may be taken by Alaska Natives for subsistence purposes (73 FR 60976). That rule prohibits harvest for a 5-year interval period if the average stock abundance of Cook Inlet beluga whales over the prior five-year interval is below 350 whales. Harvest levels for the current 5-year planning interval (2013-2017) are zero because the average stock abundance for the previous five-year period (2008-2012) was below 350 whales. Based on the average abundance over the 2002-2007 period, no hunt occurred between 2008 and 2012 (NMFS, 2008a). The Cook Inlet Marine Mammal Council, which

managed the Alaska Native Subsistence fishery with NMFS, was disbanded by a unanimous vote of the Tribes' representatives on June 20, 2012. At this time, no harvest is expected in 2015 or, likely, in 2016.

Villages in lower Cook Inlet adjacent to EMALL's proposed survey area (Kenai, Salamatof) have either not traditionally hunted beluga whales, or at least not in recent years, and rarely do they harvest sea lions. Between 1992 and 2008, the only reported sea lion harvests from this area were two Steller sea lions taken by hunters from Kenai (Wolfe et al. 2009). These villages more commonly harvest harbor seals, with Kenai reporting an average of about 13 per year between 1992 and 2008 (Wolfe et al. 2008). According to Fall et al. (1984), many of the seals harvested by hunters from these villages were taken on the west side of the inlet during hunting excursions for moose and black bears (or outside SAE's lower Cook unit).

Although marine mammals remain an important subsistence resource in Cook Inlet, the number of animals annually harvested is low, and are primarily harbor seals. Much of the harbor seal harvest occurs incidental to other fishing and hunting activities, and at areas outside of the EMALL's proposed survey areas such as the Susitna Delta or the west side of lower Cook Inlet. Also, EMALL is unlikely to conduct the majority of their survey activity in the vicinity of any of the river mouths where large numbers of seals haul out.

EMALL has identified the following features that are intended to reduce impacts to subsistence users:

- Authorized in-water survey activities will follow mitigation procedures to minimize effects on the behavior of marine mammals and, therefore, opportunities for harvest by Alaska Native communities.

EMALL met with the native village of Salamatof on May 26, 2015 and the Kenaitze tribe on May 22, 2015 and no concerns related to the proposed incidental take of marine mammals was raised. Similar meetings were conducted with Tyonek and Beluga on May 21, 2015, who had voiced no concern regarding marine mammals but did discuss fisheries issues. Additional communications will continue throughout the project

Chapter 4 Environmental Consequences

This chapter of the EA analyzes the impacts of the three alternatives on the human environment. EMALL's application, our *Federal Register* notice of the proposed Authorization, and other related environmental analyses identified previously inform our analysis of the direct, indirect, and cumulative effects of our proposed issuance of an Authorization.

Under the MMPA, we have evaluated the potential impacts of EMALL's survey operations in order to determine whether to authorize incidental take of marine mammals. Under NEPA, we have determined that an EA is appropriate to evaluate the potential significance of environmental impacts resulting from the issuance of our Authorization.

4.1. Effects of Alternative 1 – Issuance of Authorizations with Mitigation Measures

Alternative 1 is the Preferred Alternative where we would issue an Authorization to EMALL allowing the incidental take, by Level B harassment, of four species of marine mammals, subject to the mandatory mitigation and monitoring measures and reporting requirements set forth in the IHA (see Section 2.3.1), if issued.

4.1.1. Impacts to Marine Mammal Habitat

Our proposed action would have no additive or incremental effect on the physical environment beyond those resulting from the proposed activities. EMALL's proposed survey area is not located within a marine sanctuary or a National Park. State wildlife conservation areas have been designated in Cook Inlet; however, those occur mostly on land with some portions along the coasts and would not be impacted by our proposed action of the issuance of an Authorization to take marine mammals. The proposed survey would minimally add to vessel traffic in the region. The proposed activities would not result in substantial damage to ocean and coastal habitats that might constitute marine mammal habitat. We do not anticipate that the survey operations would physically alter the marine environment or negatively impact the physical environment in the proposed action area. The Authorization would minimally and briefly impact physical habitat features, such as substrates and/or water quality due to vibracoring. These impacts will be short in duration, as vibracoring occurs for approximately 90 seconds in 55 locations across the survey area.

NMFS has established critical habitat for both the western distinct population segment of Steller sea lions and Cook Inlet beluga whales (described in section 3.1.1 of this EA). The proposed survey would not occur in locations designated as critical habitat for Steller sea lions, so there would be no effect. A portion of EMALL's proposed surveying in Lower Cook Inlet is in Critical Habitat Area 2; none of the proposed surveying would occur in Critical Habitat Area 1. The primary impacts are acoustic in nature, which would not result in permanent destruction of any critical habitat. Additionally, mitigation measures would be required in the Authorization, if issued, to reduce activity near Critical Habitat Area 1 when beluga whales are present in high numbers. Therefore, impacts to habitat would be minimal. More information on potential impacts to marine mammal habitat is contained in EMALL's application (EMALL, 2015), the Biological Assessment (EMALL, 2015), and our *Federal Register* notice of the proposed IHA notice, which are incorporated herein by reference.

4.1.2. Impacts to Marine Mammals

We expect that disturbance from acoustic stimuli associated with the survey program have the potential to impact marine mammals. Acoustic stimuli generated by the airgun and sub-bottom profiler may affect marine mammals in one or more of the following ways: tolerance, masking of natural sounds, behavioral disturbance, or non-auditory physical effects (Richardson et al. 1995a). Our proposed IHA notice and EMALL's application (EMALL, 2015) provide detailed descriptions of these potential effects of the proposed survey on marine mammals. That information is incorporated herein by reference and summarized next.

Numerous studies have shown that underwater sounds from industry activities are often readily detectable by marine mammals in the water at distances of many kilometers. Numerous studies have also shown that marine mammals at distances more than a few kilometers away often show no apparent response to industry activities of various types (Miller et al., 2005; Bain and Williams, 2006). This is often true even in cases when the sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to underwater sound such as airgun pulses or vessels under some conditions, at other times mammals of all three types have shown no overt reactions (e.g., Malme et al., 1986; Richardson et al., 1995a,b; Madsen and Mohl, 2000; Croll et al., 2001; Jacobs and Terhune, 2002; Madsen et al., 2002; Miller et al., 2005).

Masking is the obscuring of sounds of interest by other sounds, often at similar frequencies. Marine mammals are highly dependent on sound, and their ability to recognize sound signals amid other noise is important in communication, predator and prey detection, and, in the case of toothed whales, echolocation. Although some degree of masking is inevitable when high levels of manmade broadband sounds are introduced into the sea, marine mammals have evolved systems and behavior that function to reduce the impacts of masking. Structured signals, such as the echolocation click sequences of small toothed whales, may be readily detected even in the presence of strong background noise because their frequency content and temporal features usually differ strongly from those of the background noise (Au and Moore, 1988, 1990). The components of background noise that are similar in frequency to the sound signal in question primarily determine the degree of masking of that signal.

Masking effects of underwater sounds from EMALL's proposed activities on marine mammal calls and other natural sounds are expected to be limited. For example, beluga whales primarily use high-frequency sounds to communicate and locate prey; therefore, masking by low-frequency sounds associated with survey activities is not expected to occur (Gales, 1982). There is evidence of other marine mammal species continuing to call in the presence of industrial activity. Annual acoustical monitoring near BP's Northstar production facility during the fall bowhead migration westward through the Beaufort Sea has recorded thousands of calls each year (for examples, see Richardson et al., 2007; Aerts and Richardson, 2008). Construction, maintenance, and operational activities have been occurring from this facility for over 10 years. To compensate and reduce masking, some mysticetes may alter the frequencies of their communication sounds (Richardson et al., 1995a; Parks et al., 2007).

There is little concern regarding masking from the airgun in this case due to the brief duration of these pulses and relatively longer silence between airgun shots (9 – 12 seconds) near the sound source. Therefore, masking effects are anticipated to be limited, especially in the case of odontocetes, given that

they typically communicate at frequencies higher than that of the airgun. Both the chirper and boomer sub-bottom profilers produce impulsive sound exceeding 160 dB re 1 μ Pa-m (rms). Marine mammal communications would not likely be masked appreciably by the profiler's signals given the directionality of the signal and the brief period when an individual mammal is likely to be within its beam. Furthermore, despite the fact that the profiler overlaps with hearing ranges of many marine mammal species in the area, the profiler's signals do not overlap with the predominant frequencies in the calls, which would avoid significant masking.

Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. These behavioral reactions are often shown as: changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (e.g., pinnipeds flushing into water from haul-outs or rookeries). The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Richardson et al. 1995a; Southall et al. 2007).

Little systematic information is available about reactions of beluga whales, killer whales, and harbor porpoise to noise pulses. In general, small toothed whales more often tend to head away, or to maintain a somewhat greater distance from the vessel, when a large airgun array is operating (e.g., Stone and Tasker 2006; Weir 2008; Barry et al. 2010). Beluga whales exhibit changes in behavior when exposed to strong, pulsed sounds similar in duration to those typically used in seismic surveys (Finneran et al. 2000, 2002). However, the animals tolerated high received levels of sound (peak-peak level >200 dB re 1 μ Pa) before exhibiting aversive behaviors (Richardson et al. 1995b). Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kilometers, even though the airgun pulses remain well above ambient noise levels out to much greater distances (Miller et al. 2005).

While there are no published data on seismic and sub-bottom profiler effects on sea lions or harbor seals, anecdotal data and data on arctic seals suggest that sea lions and other pinnipeds generally tolerate strong noise pulses due to the similarity in anatomy and physiology (Richardson et al. 1995a). Monitoring studies in the Alaskan and Canadian Beaufort Sea during 1996–2002 provided considerable information regarding behavior of arctic seals exposed to seismic pulses (Miller et al. 2005; Harris et al. 2001; Moulton and Lawson 2002). These seismic projects generally were much larger than the proposed survey and usually involved arrays of 6 to 16 with as many as 24 airguns with total volumes 560 to 1500 cu. The combined results suggest that some seals avoid the immediate area around seismic vessels. Reactions are expected to be very localized and confined to relatively small distances and durations, with no long-term effects on individuals or populations.

Chorney et al. (2011) conducted sound measurements on an operating vibracorer in Alaska and found that it emitted a sound pressure level at 1-m source of 187.4 dB re 1 μ Pa-m (rms), with a frequency range of between 10 Hz and 20 kHz (Table 2). Vibracoring will result in the largest zone of influence (ZOI; area ensonified by sound energy greater than the 120 dB threshold) among the continuous sound sources. Following the public comment period, NMFS decided it will authorize take of marine mammals for use of vibracoring in this survey at the request of the applicant.

Table 4 outlines our current acoustic thresholds for estimating marine mammal harassment, and Tables 5 and 6 outline the various radii for the proposed sound sources for use during EMALL's survey operations.

Table 4. Current acoustic exposure criteria used by NMFS.

Criterion	Criterion Definition	Threshold
Level A Harassment (Injury)	Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS)	180 dB re 1 microPa-m (cetaceans) / 190 dB re 1 microPa-m (pinnipeds) root mean square (rms)
Level B Harassment	Behavioral Disruption (for impulse noises)	160 dB re 1 microPa-m (rms)
Level B Harassment	Behavioral Disruption (for continuous, noise)	120 dB re 1 microPa-m (rms)

Table 5. Distances to Level B harassment sound level thresholds for survey equipment.

Survey Equipment	Distance to 160 dB Isopleth m (ft)	Distance to 120 dB Isopleth km (mi)	160 dB ZOI km² (mi²)	120 dB ZOI km² (mi²)
Sub-bottom Profiler (Chirp)	184 (604)	N/A	0.106 (0.041)	N/A
Sub-bottom Profiler (Boomer)	263 (863)	N/A	0.217 (0.084)	N/A
Airgun	300 (984)	N/A	0.283 (0.109)	N/A
Vibracore	N/A	2.54 (1.58)	N/A	20.26 (7.82)

In summary, we interpret these effects on all marine mammals as falling within the MMPA definition of Level B (behavioral) harassment. We expect these impacts to be minor because we do not anticipate measurable changes to the population or impacts to rookeries, mating grounds, and other areas of similar significance.

Under the Preferred Alternative, we would authorize incidental take, by Level B harassment only, of four species of marine mammals. We expect no long-term or substantial adverse effects on marine mammals, their habitats, or their role in the environment. We base our conclusion on the results of previous monitoring reports submitted by other Cook Inlet IHA applicants for similar surveys using equipment with larger source levels.

EMALL proposed a number of monitoring and mitigation measures for marine mammals, and we included some additional mitigation measures not proposed by EMALL, as part of our evaluation for the Preferred Alternative. In consideration of the potential effects of the proposed survey, we determined that the mitigation and monitoring measures described in Section 2.3.1 of this EA would be appropriate for the preferred alternative to meet the Purpose and Need.

Injury: EMALL did not request authorization to take marine mammals by injury (Level A harassment), serious injury, or mortality. Based on the results of our analyses, EMALL's environmental analyses, and previous monitoring reports for similar activities, there is no evidence that EMALL's planned activities could result in injury, serious injury, or mortality within the action area. The mitigation and monitoring measures described in Section 2.3.1 of this EA would minimize any potential risk for marine mammals.

Vessel Strikes: The potential for striking marine mammals is a concern with vessel traffic. Studies have associated ship speed with the probability of a ship strike resulting in an injury or mortality of an animal. However, it is highly unlikely that EMALL would strike a marine mammal. Typical vessel speeds of the source vessels while collecting data is between 4-5 knots. Moreover, mitigation measures would be required of EMALL to reduce speed or alter course if collisions with marine mammals appear likely.

Entanglement: Although some of EMALL's equipment contains cables or lines, the risk of entanglement is extremely remote. Additionally, mortality from entanglement is not anticipated. The material used by EMALL and the amount of slack is not anticipated to allow for marine mammal entanglements.

Estimated Take of Marine Mammals by Level B Incidental Harassment: EMALL has requested take by Level B harassment as a result of the acoustic stimuli generated by their proposed survey. We expect that the survey would cause a short-term behavioral disturbance for marine mammals in the proposed areas.

As mentioned previously, we estimate that the activities could potentially affect, by Level B harassment only, four species of marine mammals under our jurisdiction. For each species, these estimates are small numbers (less than 7.2 percent for belugas, less than 5.1 percent for harbor seals, and less than 1.5 percent for the other species) relative to the population sizes. Table 6 outlines the number of Level B harassment takes that we propose to authorize on an annual basis in the Authorization, the regional population estimates for marine mammals in the action area, and the percentage of each population or stock that may be taken as a result of EMALL's activities.

Our proposed IHA notice and EMALL's application (EMALL, 2015) contain complete descriptions of how these take estimates were derived. A short summary is provided here. For all marine mammal species), take estimates were derived by multiplying the expected density by the anticipated daily area ensonified to sound levels ≥ 160 dB rms by the expected number of survey days for each sound source. We do not expect the proposed activities to impact rates of recruitment or survival for any affected species or stock. Further, the activities would not adversely affect marine mammal habitat.

Table 6. Proposed Level B harassment take levels, species or stock abundance, and percentage of population proposed to be taken.

Species	Exposure Estimate	Take Proposed to be Authorized	Percent of Stock or Population	Population Trend
Beluga	23.69	24	7.06	Decreasing
Killer whale	3.39	5	1.44 transient	Transient - Stable
Harbor seal	1167.68	1168	5.10	Stable
Harbor porpoise	13.60	20	0.064	No reliable info

4.1.3. Impacts on Subsistence

Under the Alternative 1 (the Preferred Alternative), EMALL's survey in Cook Inlet is expected to have minor and temporary effects on subsistence wildlife and marine mammals in the area. Sound from the proposed activity might temporarily displace wildlife from the area, but animals are expected to return to the area following the cessation of use of sound sources for which an Authorization is proposed during survey activities.

Residents of the Native Village of Tyonek are the primary marine mammal subsistence users in Knik Arm area. However, due to dramatic declines in the Cook Inlet beluga whale population, on May 21, 1999, legislation was passed to temporarily prohibit (until October 1, 2000) the taking of Cook Inlet belugas under the subsistence harvest exemption in section 101(b) of the MMPA without a cooperative agreement between NMFS and the affected Alaska Native Organizations (ANOs) (Public Law No. 106-31, section 3022, 113 Stat. 57,100).. That prohibition was extended indefinitely on December 21, 2000 (Public Law No. 106-553, section 1(a)(2), 114 Stat. 2762). NMFS subsequently entered into six annual co-management agreements (2000-2003, 2005-2006) with the Cook Inlet Marine Mammal Council, an ANO representing Cook Inlet beluga hunters, which allowed for the harvest of 1-2 belugas. On October 15, 2008, NMFS published a final rule that established long-term harvest limits on the Cook Inlet beluga whales that may be taken by Alaska Natives for subsistence purposes (73 FR 60976). That rule prohibits harvest for a five-year period (2008-2012), if the average abundance for the Cook Inlet beluga whales from the prior five years (2003-2007) is below 350 whales. The current five-year period that could have allowed for a harvest (2013-2017), would have required the previous five-year average (2008-2012) to be above 350 whales, which it was not. Tyonek Natives occasionally harvest harbor seals, but their primary source of red meat is moose.

Data on the harvest of other marine mammals in Cook Inlet are lacking. The only data available for subsistence harvest of harbor seals, harbor porpoises, and killer whales in Alaska are in the marine mammal stock assessments. However, these numbers are for the entire Gulf of Alaska not just Cook Inlet, and they are not indicative of the harvest in Cook Inlet. Because of the relatively small proportion of marine mammals occurring in Cook Inlet, the number harvested is expected to be extremely low. For example, there is a low level of subsistence hunting for harbor seals in Cook Inlet. Seal hunting occurs opportunistically among Alaska Natives who may be fishing or travelling in the upper Inlet near the mouths of the Susitna River, Beluga River, and Little Susitna River (B. Smith, NMFS, pers. comm.).

EMALL has identified the following features that are intended to reduce impacts to marine mammal subsistence users:

- Proposed in-water activities would follow mitigation procedures to minimize effects on the behavior of marine mammals and, therefore, opportunities for harvest by Alaska Native communities; and
- Regional subsistence representatives are able to assist with monitoring efforts and will be provided with annual reports.

EMALL concluded, and NMFS agrees, that the size of the affected area, mitigation measures, and input from the consultations from Alaska Natives should result in the proposed action, and the underlying survey activities, having no unmitigable adverse impact on the availability of marine mammals for subsistence uses. EMALL and NMFS recognize the importance of ensuring that Alaska Native Organizations and federally recognized tribes are informed, engaged, and involved during the permitting process and will continue to work with the ANOs and tribes to discuss their operations and activities.

NMFS anticipates that any effects from EMALL's proposed survey on marine mammals, especially harbor seals and Cook Inlet beluga whales, which are or have been taken for subsistence uses, would be short-term, site specific, and limited to inconsequential changes in behavior and mild stress responses. NMFS does not anticipate that the authorized taking of affected species or stocks would reduce the

availability of the species to a level insufficient for a harvest to meet subsistence needs by: (1) Causing the marine mammals to abandon or avoid hunting areas; (2) directly displacing subsistence users; or (3) placing physical barriers between the marine mammals and the subsistence hunters; and that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

4.2. Effects of Alternative 2 – No Action Alternative

Under the No Action Alternative, we would not issue an Authorization to EMALL. The applicant would not receive an exemption from the MMPA and ESA prohibitions against take and would not perform the survey, and therefore there would be no effect on the environment. The incidental take of marine mammals, including those listed as threatened or endangered, resulting from EMALL's survey would not be exempted. It is unlikely the applicant would conduct the research in the absence of a permit, because to do so would risk sanctions and enforcement actions under the MMPA and ESA.

The No Action alternative—not conducting the survey—would not serve the need and purpose for the proposed Authorization.

4.3. Effects of Alternative 3 – Issuance of Authorization with Additional Mitigation and Monitoring Measures

Under Alternative 3, all of the mitigation, monitoring, and reporting measures that would be required under Alternative 1 would also be required. The difference under this alternative is that additional mitigation and monitoring measures would be required, including: a 120-dB monitoring (and safety) zone for beluga whale cow/calf pairs in Cook Inlet; active acoustic monitoring; and the use of unmanned aerial vehicles to conduct aerial monitoring.

4.3.1. Impacts to Marine Mammal Habitat

Effects to the physical environment would be the same under Alternative 3 as those described above for the survey itself in Alternative 1. No additional effects beyond those already described would be expected.

4.3.2. Impacts to Marine Mammals

Marine mammals would still be expected to be harassed by the proposed survey in Cook Inlet. As described in Alternative 1, anticipated impacts to marine mammals associated with EMALL's proposed survey (primarily resulting from noise propagation) are from vessel movements, sub-bottom profiler chirp and boomwe, and an airgun. Potential impacts to marine mammals might include one or more of the following: tolerance, masking of important natural signals, behavioral disturbance, or non-auditory effects. These are the same types of reactions that would be anticipated under the Preferred Alternative (Alternative 1).

The primary difference under Alternative 3 is that additional mitigation and monitoring measures for detecting marine mammals would be required. These additional measures include a 120-dB monitoring (safety) zone for beluga whale cow/calf pairs, active acoustic monitoring, and the use of unmanned aerial vehicles to conduct aerial monitoring. Monitoring for cow/calf pairs to the 120-dB zone is not practicable for vessel based PSOs in Cook Inlet on the size vessels proposed in this survey. While the technologies for unmanned aerial and acoustic monitoring methods are still being developed and refined, it is expected

that they would allow for additional detection of marine mammals beyond visual observations from shipboard observers. These additional monitoring measures could allow for mitigation measures (i.e., power-downs and shutdowns) to be implemented more quickly and more frequently, if practicable, thereby potentially reducing further the impacts on the affected species or stocks. However, until these technologies are developed and fully tested, we are unable to fully assess the impacts of such an alternative.

4.3.3. Impacts to Subsistence

Under Alternative 3, impacts to marine mammal subsistence are anticipated to be the same as those described for Alternative 1.

4.4. Unavoidable Adverse Impacts

EMALL's application, our *Federal Register* notice of the proposed IHA, and other environmental analyses identified unavoidable adverse impacts to marine mammals or the populations to which they belong or on their habitats, as well as subsistence uses of marine mammals, occurring in the proposed survey area. We incorporate those documents by reference.

We acknowledge that the incidental take proposed to be authorized would potentially result in some level of unavoidable adverse impacts including behavioral disturbance, masking, and non-auditory effects to marine mammals. However, we expect that the numbers of individuals of each species or stock taken by harassment would be small (relative to species or stock abundance), that the proposed survey and the take resulting from the survey activities would have a negligible impact on the affected species or stocks of marine mammals, and that there would not be an unmitigable adverse impact to subsistence uses of marine mammals in Cook Inlet.

4.5. Cumulative Effects

NEPA defines cumulative effects as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions" (40 CFR §1508.7). Cumulative impacts can result from individually minor but collectively significant actions that take place over a period of time.

The Cook Inlet region is a major population center in the State of Alaska and supports a wide range of activities. The proposed survey would add another, albeit temporary, industrial activity to Cook Inlet. This activity would be limited to a small area of the Inlet, and there would be no objects or materials permanently released into the water column. This section provides a brief summary of the human-related activities affecting the marine mammal species in the action area.

4.5.1. Subsistence Hunting

In Cook Inlet, Native hunters historically have hunted beluga whales and harbor seals for food. The subsistence harvest of beluga transcends nutritional and economic value of the whale as the harvest is an integral part of the cultural identity of the region's Alaska Native communities. Inedible parts of the whale provide Native artisans with materials for cultural handicrafts, and the hunting perpetuates Native

traditions by transmitting traditional skills and knowledge to younger generations. However, due to dramatic declines in the Cook Inlet beluga whale population, on May 21, 1999, legislation was passed to temporarily prohibit (until October 1, 2000) the taking of Cook Inlet belugas under the subsistence harvest exemption in section 101(b) of the MMPA without a cooperative agreement between NMFS and the affected ANOs (Public Law No. 106-31, section 3022, 113 Stat. 57,100). That prohibition was extended indefinitely on December 21, 2000 (Public Law No. 106-553, section 1(a)(2), 114 Stat. 2762). NMFS subsequently entered into six annual co-management agreements (2000-2003, 2005-2006) with the Cook Inlet Marine Mammal Council, an ANO representing Cook Inlet beluga hunters, which allowed for the harvest of 1-2 belugas.

On October 15, 2008, NMFS published a final rule that established long-term harvest limits on Cook Inlet beluga whales that may be taken by Alaska Natives for subsistence purposes (73 FR 60976). That rule prohibits harvest for a 5-year interval period if the average stock abundance of Cook Inlet beluga whales over the prior five-year interval is below 350 whales. Harvest levels for the current 5-year planning interval (2013-2017) are zero because the average stock abundance for the previous five-year period (2008-2012) was below 350 whales. Based on the average abundance over the 2002-2007 period, no hunt occurred between 2008 and 2012 (NMFS, 2008a). The Cook Inlet Marine Mammal Council, which managed the Alaska Native Subsistence fishery with NMFS, was disbanded by a unanimous vote of the Tribes' representatives on June 20, 2012. At this time, no harvest is expected in 2015 or, likely, in 2016. Additional information on the Cook Inlet beluga harvest can be found in NMFS (2008a).

There is a low level of subsistence hunting for harbor seals in Cook Inlet. Seal hunting occurs opportunistically among Alaska Natives who may be fishing or travelling in the upper Inlet near the mouths of the Susitna River, Beluga River, and Little Susitna. Some detailed information on the subsistence harvest of harbor seals is available from past studies conducted by the Alaska Department of Fish & Game (Wolfe et al., 2009). In 2008, 33 harbor seals were taken for harvest in the Upper Kenai-Cook Inlet area. In the same study, reports from hunters stated that harbor seal populations in the area were increasing (28.6%) or remaining stable (71.4%). The specific hunting regions identified were Anchorage, Homer, Kenai, and Tyonek, and hunting generally peaks in March, September, and November (Wolfe et al., 2009). The timing and location of subsistence harvest of Cook Inlet harbor seals may coincide with EMALL's project, but because this subsistence hunt is conducted opportunistically and at such a low level (NMFS, 2013c), EMALL's program is not expected to have an impact on the subsistence use of harbor seals.

4.5.2. Pollution

As the population in urban areas continue to grow, an increase in amount of pollutants that enter Cook Inlet is likely to occur. Sources of pollutants in urban areas include runoff from streets and discharge from wastewater treatment facilities. Gas, oil, and coastal zone development projects (e.g., the Chuitna Coal Mine) also contribute to pollutants that enter Cook Inlet through discharge. Gas, oil, and coastal zone development will continue to take place in Cook Inlet; therefore, it would be expected that pollutants could increase in Cook Inlet. However, the EPA and the ADEC will continue to regulate the amount of pollutants that enter Cook Inlet from point and non-point sources through NPDES permits. As a result, permittees will be required to renew their permits, verify they meet permit standards and potentially upgrade facilities. Additionally, the extreme tides and strong currents in Cook Inlet may contribute in reducing the amount of pollutants found in the Inlet.

4.5.3. Fisheries Interaction

Fishing is a major industry in Alaska. As long as fish stocks are sustainable, subsistence, personal use, recreational and commercial fishing will continue to take place in Cook Inlet. As a result there will be continued prey competition, risk of ship strikes, potential harassment, potential for entanglement in fishing gear and potential displacement from important foraging habitat for the Cook Inlet beluga whales. NMFS and the ADF&G will continue to manage fish stocks and monitor and regulate fishing in Cook Inlet to maintain sustainable stocks.

4.5.4. Vessel Traffic

Major contributors to vessel traffic throughout Cook Inlet include port facilities, oil and gas development, and commercial and recreational fishing. The Port of Anchorage (POA) is a major Alaskan port located adjacent to Anchorage in upper Cook Inlet. While the POA is outside the action area considered in this EA, the POA yields a high volume of vessels traffic that must pass through or near the action area described in this EA. The POA provides 90 percent of the consumer goods for 85 percent of the state of Alaska. The POA handles the majority of Alaska's refined petroleum products and the bulk of jet fuel for Joint Base Elmendorf-Richardson and the Ted Stevens Anchorage International Airport (100 and 60 percent respectively; POA, 2014). Major vessels calling to the POA include cargo ships, barges, tankers, dredgers, military ships and tug boats (POA, 2009). Based on data from 1998-2011, an average of approximately 450 vessels call to the POA annually (POA, 2014). The POA is currently under construction and expanding its facilities. As a result, vessel traffic will increase once the project is complete.

Port MacKenzie is located in upper Cook Inlet and also contributes to vessel traffic that passes through or near the EA action area. It receives about two large ships annually (i.e. a landing craft and/or a barge), which is substantially less than the POA. However, the number of ships calling to port at Port MacKenzie is expected to increase over the next five years; the Rail Extension and expanding the currently existing deep draft dock are planned for construction. Smaller port facilities that contribute to vessel traffic in the action area include Nikiski, the City of Kenai, Kasilof, Ninilchik, Anchor River, Tyonek and Drift River. Vessels ranging from tankers to fishing boats call to these ports (Kenai Peninsula Borough, 2003). Gas and oil development also contribute to vessel traffic in the action area, as well as commercial and recreational fishing vessels.

4.5.5. Gas and Oil Development

Currently, there are several gas and oil development projects in the proposed action area, and it is likely that future gas and oil development will continue to take place in the action area. Apache, for example, is requesting to conduct seismic surveys in Cook Inlet for the next five years, and NMFS has issued an MMPA incidental take authorization to SAEExploration Inc. incidental to seismic surveys, which is very similar to Apache with some spatial overlap and also temporal overlap, as well as one request for MMPA Authorization to take marine mammals incidental to an exploratory drilling program in lower Cook Inlet. The 2015-2020 proposed rulemaking for Apache Alaska Corporation is for a seismic survey proposed to begin in April 2015 and proceed to February 2020. This survey is expected to cover much of the same area as SAE's current survey, but also contains many of the same mitigation measures to reduce impact to marine mammal species and their habitat. Apache proposed to use vessel-based, shore-based, as well as aerial observers, both during daytime seismic operations as well as during time without ongoing seismic.

The same seasonal 10 mile buffer to beluga critical habitat from April 15 to October 15 applies to the Apache survey. Impacts from gas and oil development include increased noise from seismic activity, vessel and air traffic and well drilling; discharge of wastewater; habitat loss from the construction of oil and gas facilities; and contaminated food sources and/or injury from a natural gas blowout or oil spill. The risk of these impacts may increase as oil and gas development increases; however, new development will undergo consultation and permitting requirements prior to exploration and development. If Authorizations are issued to these other applicants, they would be required to implement mitigation and monitoring measures to reduce impacts to marine mammals and their habitat in the area and would be subject to the same MMPA and ESA standards.

Support vessels are required for gas and oil development to transport supplies and products to and from the facilities. Not only will the support vessels from increased gas and oil development likely increase noise in the action area, there is a potential for a slightly increased risk of ship strikes with beluga whales; however, ship strikes have not been definitively confirmed in a Cook Inlet beluga whale death, and monitoring measures should reduce this risk by placing visual monitors on ships to look out for whales.

4.5.6. Coastal Zone Development

Coastal zone development may result in the loss of habitat, increased vessel traffic, increased pollutants and increased noise associated with construction and noise associated with the activities of the projects after construction. In the action area, two main projects are being considered, the Chuitna Coal Mine and the Ocean Renewable Power Company (ORPC) Tidal Energy Project.

Chuitna Coal Project

PacRim Coal, LP is proposing to develop, construct and operate a coal mine and export facility 19 km (12 mi) northwest of the Village of Tyonek. Potential impacts to marine mammals in upper Cook Inlet from the Chuitna Coal Project would include the construction of the coal export facility and surface water discharge. The coal export facility that includes an overland coal conveyer and ship loading berth would extend from shore into Cook Inlet. The conveyer and ship berth would incorporate tower sites approximately 335 m (1,100 ft) apart to allow for uninhibited movement of marine life (PacRim Coal, LP, 2011). No chemical or water-based processing of the coal would take place; therefore, the expected sources of discharge from the project would include rainfall, snowmelt and groundwater (PacRim Coal, LP, 2011). Prior to discharging water into Cook Inlet, the water would be directed to sediment control structures and meet the water quality criteria described by the APDES permit (PacRim Coal, LP 2011).

ORPC Alaska Tidal Energy Projects

The ORPC is proposing two tidal energy projects in Cook Inlet. The first tidal energy project would be located on the Westside of Fire Island near Anchorage, and the second project would be located adjacent to the East Foreland in the vicinity of Nikiski on the Kenai Peninsula (ORPC, 2011). The tidal energy projects would require the installation of an array of turbine generator units and transmission cables on the seafloor to harness the tidal energy. The tidal energy will be converted to electrical energy at stations on land. These projects are still in preliminary testing and environmental monitoring phases (ORPC, 2011).

4.5.7. Marine Mammal Research

Because many important aspects of marine mammal biology remain unknown, or are incompletely studied, and because management of these species and stocks requires knowledge of their distribution, abundance, migration, population, ecology, physiology, genetics, behavior, and health, free-ranging marine mammal species are frequently targeted for scientific research and studies. Research activities normally include close approach by vessel and aircraft for line-transect surveys; behavioral observation; photo-identification and photo-video-grammetry; passive acoustic recording; attachment of scientific instruments (tagging), both by implantable and suction cup tags; biopsy sampling, including skin and blubber biopsy and swabbing; land-based surveys; live capture for health assessments, and blood and tissue sampling, pinniped tooth extraction, and related pinniped anesthesia procedures. All researchers are required to obtain a scientific research permit from NMFS Office of Protected Resources under the MMPA and/or ESA (if an ESA-listed species is involved). Currently, the permits authorizing research on beluga whales in Cook Inlet, as well as permits authorizing research on harbor seals, harbor porpoises, Steller sea lions, and killer whales in Alaskan waters may have cumulative effects on these species and stocks but are likely not significant. NMFS anticipates that scientific research on marine mammals in Cook Inlet will continue, and possibly expand, due to the increasing need to better understand distribution and abundance relative to temporal (seasonal, diel, or tidal) and spatial (geographic or bathymetric) parameters.

4.5.8. Climate Change

The 2007 Intergovernmental Panel on Climate Change concluded that there is very strong evidence for global warming and associated weather changes and that humans have “very likely” contributed to the problem through burning fossil fuels and adding other “greenhouse gases” to the atmosphere (IPCC, 2007). This study involved numerous models to predict changes in temperature, sea level, ice pack dynamics, and other parameters under a variety of future conditions, including different scenarios for how human populations respond to the implications of the study.

Evidence of climate change in the past few decades, commonly referred to as global warming, has accumulated from a variety of geophysical, biological, oceanographic, and atmospheric sources. The scientific evidence indicates that average air, land, and sea temperatures are increasing at an accelerating rate. Although climate changes have been documented over large areas of the world, the changes are not uniform and affect different areas in different ways and intensities. Arctic regions have experienced some of the largest changes, with major implications for the marine environment as well as for coastal communities. Recent assessments of climate change, conducted by international teams of scientists (Gitay et al., 2002 for the Intergovernmental Panel on Climate Change; (IPCC) Arctic Climate Impact Assessment, 2004; IPCC, 2007), have reached several conclusions of consequence for this EA:

- Average arctic temperatures increased at almost twice the global average rate in the last 100 years.
- Satellite data since 1978 show that perennial arctic sea ice extent has shrunk by 2.7 percent per decade, with larger decreases in sea ice extent in summer of 7.4 percent per decade.
- Arctic sea ice thickness has declined by about 40 percent during the late summer and early autumn in the last three decades of the 20th century.

Marine mammals are classified as sentinel species because they are good indicators of environmental change. Arctic marine mammals are ideal indicator species for climate change, due to their circumpolar distribution and close association with ice formation. NMFS recognizes that warming of the Arctic, which results in the diminishing of ice, could be a cause for concern to marine mammals. In Cook Inlet, marine mammal distribution is dependent upon ice formation and prey availability, among other factors. For example, belugas often travel just along the ice pack and feed on prey beneath it (Richardson et al., 1990, 1991). Any loss of ice could result in prey distribution changes or loss; however, beluga whales do not use ice for resting, reproduction, or rearing of young like pinnipeds.

It is not clear how governments and individuals will respond or how much of these future efforts will reduce greenhouse gas emissions. Although the intensity of climate changes will depend on how quickly and deeply humanity responds, the models predict that the climate changes observed in the past 30 years will continue at the same or increasing rates for at least 20 years. Although NMFS recognizes that climate change is a concern for the sustainability of the entire ecosystem in Cook Inlet, it is unclear at this time the full extent to which climate change will affect marine mammal species.

4.5.9. Conclusion

Based on the summation of activity in the area provided in this section, NMFS determined that the impact of issuing an Authorization for one year for the proposed EMALL geotechnical and geophysical survey in Cook Inlet would not be expected to result in a cumulative significant impact to the human environment when added to past, present, and future activities. The potential impacts to marine mammals, their habitats, and the human environment of issuing an Authorization are expected to be minimal based on the limited and temporary noise footprint and mitigation and monitoring requirements of the Authorization.

Chapter 5 List of Preparers and Agencies Consulted

Agencies Consulted

No other persons or agencies were consulted in preparation of this EA.

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